1	IGNACIA S. MORENO	
2	Assistant Attorney General United States Department of Justice	
	Environment & Natural Resources Division	
3	ERIK PETERSEN	
4	Trial Attorney, D.C. Bar No. 489073 Wildlife & Marine Resources Section	
5	Ben Franklin Station, P.O. Box 7369	
ć	Washington, D.C. 20044-7369	
6	Tel. (202) 305-0202 Fax: (202) 305-0275 erik.petersen@usdoj.gov	
7	CAROL L. DRAPER	
8	Trial Attorney, PA Bar No. 39388	
9	Natural Resources Section, P.O. Box 663 Washington, D.C. 20044-0663	
	Tel: (202) 305-0465 Fax: (202) 305-0506	
10	carol.draper@usdoj.gov	
11	MEREDITH WEINBERG Trial Attorney, VA Bar No. 47516	
12	Environmental Defense Section, P.O. Box 23986	
13	Washington, D.C. 20026-3986 Tel. 202-514-2593; Fax: 202-514-8865	
14	meredith.weinberg@usdoj.gov	
14	ATTORNEYS FOR FEDERAL DEFENDANTS	
15	IN THE UNITED STATES	DISTRICT COURT
16	FOR THE NORTHERN DISTR	
17	SAN FRANCISCO	DIVISION
18	CALIFORNIA NATIVE PLANT SOCIETY, et al.,	Case No. 4: 06-CV-3604 PJH
10	Plaintiffs,	STATUS REPORT
19		SUBMITTED BY FEDERAL DEFENDANTS
20	v. ()	
21	UNITED STATES ENVIRONMENTAL	Judge: Honorable Phyllis J. Hamilton
22	PROTECTION AGENCY, et al.,	
23	Defendants.	)
24		
25	Pursuant to the Order dated December 2, 200	8 (Dkt. # 245), the Federal Defendants,
26	United States Environmental Protection Agency, Uni	ted States Fish and Wildlife Service, and
27		
28	Federal Defendants' Status Report Submitted November 1 Case No. 06-3604 (PJH)	5, 2010

1	United States Army Corps of Engineers (Corps or USACE), submit this Report on the status of
2	the Corps' preparation of an Environmental Impact Statement (EIS) for the Sunridge Properties
3	Project (Sunridge EIS) under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C.
4	4321 et seq:
5	1. This action has been stayed since December 2, 2008 pending the Corps' completion of the
6 7	Sunridge EIS, with the Corps reporting its progress to the Court at six-month intervals. Order dated
, 8	Dec. 2, 2008.
9	2. The stay ends on November 17, 2010, and the parties are scheduled to attend a status
10	conference with the Court on November 18, 2010 at 2:30 p.m. PST.
11	3. The Corps has completed the Sunridge EIS on schedule. On October, 15, 2010, the Corps
12	issued the Final Sunridge EIS for a thirty day public review and comment period that ends on
13 14	November 15, 2010.
15	4. As previously reported (See Dkt. #251), the Sunridge EIS analyzes programmatically the
16	potential environmental effects of implementing alternatives for six residential development projects
17	collectively referred to as the "Sunridge Properties" which are located in Rancho Cordova,
18	Sacramento County, California. The EIS was prepared as part of this ongoing litigation concerning
19	Department of the Army permits issued by the USACE between 2005 and 2007 for five of the
20 21	projects and a pending permit decision for the sixth. The permitted projects are: Anatolia IV (Permit
22	No. 199400210), Sunridge Village J (Permit No. 200100230), Grantline 208 (Permit No.
23	199400365), Douglas Road 98 (Permit No. 200200568), and Douglas Road 103 (Permit No.
24	
25	199700006). The Corps has not yet issued a permit decision for the sixth project, Arista del Sol
26	
20	(Permit No. 200400458).

28

1	5. As part of the analysis of the cumulative effects and incremental impacts of other past,
2	present and reasonably foreseeable future actions, the Sunridge EIS also considered the three other
3	projects challenged in this litigation, North Douglas, Montelana, and Sunridge Park, but did not
4	address those projects as part of the primary evaluation.
5	6. Following the 30-day comment period that ends November 15, 2010, the Corps will reach
6	a Record of Decision ("ROD") based on the findings and conclusions in the Sunridge EIS.
7 8	7. The Corps anticipates issuing a ROD based on the Sunridge EIS on or before January 15,
9	2010.
10	8. Federal Defendants propose staying this action for an additional 60 days until January 17,
11	2010 so that the parties have the benefit of the ROD in determining how they would like to proceed
12	with this litigation.
13	9. Following issuance of the ROD, the Corps anticipates reviewing and supplementing, as
14	9. Following issuance of the KOD, the Corps anterpates reviewing and supprementing, as
15	appropriate, the Environmental Assessments (EAs) prepared in connection with the previously-
16	issued permits challenged in this action (listed in paragraph 4 above).
17	10. The preliminary injunction issued by the Court on July 10, 2007 ("Findings of Fact and
18	Conclusions of Law in Support of Order Granting Plaintiffs' Motion for Preliminary Injunction,"
19 20	Dkt. #128) remains in effect. The Court suspended and enjoined "the force and effect of the Section
21	404(b) permits for the North Douglas, Montelana, Douglas Road 98, Sunridge Park, Anatolia IV,
22	Sunridge Village J, and Grantline 208 projects pending resolution of this matter on the merits."
23	<i>Id.</i> at 35:18-21. The Court further ordered that "any construction, groundbreaking, earthmoving, or
24	
25	other on-the-ground activity that may affect vernal pool habitat or endangered or threatened species,
26	taken in reliance on the Section 404(b) permits for the North Douglas, Montelena, Douglas Road 98,
27	Federal Defendants' Status Report Submitted November 15, 2010

28 Case No. 06-3604 (PJH)

3

1	Sunridge Park, Anatolia IV, Sunridge Village J, and Grantline 208 projects is hereby enjoined
2	pending resolution of the merits of this case." Id. at 35:22-26.
3	11. Following the July 10, 2007 Order, the Court issued an Order dated August 2, 2007 (Dkt.
4	#140) adopting the parties' proposed stipulation with regard to the Corps' permitting activities for
5	the Douglas Road 103 and Arista del Sol projects and issued an Order dated August 24, 2007 (Dkt. #
6	147) amending the July 10, 2007 Order to exclude the Montelena, North Douglas, and Sunridge Park
7 8	projects from the preliminary injunction.
9	WHEREFORE, Federal Defendants respectfully request that the Court consider extending the
10	stay of this litigation until January 17, 2011 pending the Corps' issuance of the Record of Decision
11	based on the Sunridge Properties EIS. The November 18, 2010 Status Conference is VACATED.
12	Dated: November 15, 2010
13	Respectfully submitted,
14 15	IGNACIA S. MORENO Assistant Attorney General
16	11/17/10United States Department of Justice
17	<u>ATES DISTRICT</u> <u>/s/ Carol L. Draper</u> CAROL L. DRAPER, Trial Attorney
18	Natural Resource Section ERIK PETERSEN, Trial Attorney Wildlife & Marine Baseuroes Section
19	<sup>[~]</sup> Whathe Kesources Section
20	Z Judge Phyllis J. Hamilton Z   Judge Phyllis J. Hamilton Z   Environmental Defense Section   Attorneys for Federal Defendants
21	Attorneys for Federal Defendants
22 23	OF COUNSEL:
24	Lisa Clay U.S. Army Corps of Engineers
25	1325 J Street Room 1340
26	Sacramento, California 95814
27	Federal Defendants' Status Report Submitted November 15, 2010
28	Case No. 06-3604 (PJH) 4

1	Thomas Hagler U.S. Environmental Protection Agency, Region 9
2	75 Hawthorne St., Mail Code ORC-2
3	San Francisco, CA 94105
4	Veronica Rowan FWS Office of the Regional Solicitor
5	U.S. Department of the Interior
6	2800 Cottage Way Room E-1712
7	Sacramento, CA 95825-1890
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	Federal Defendants' Status Report Submitted November 15, 2010
28	Case No. 06-3604 (PJH)

1	CERTIFICATE OF SERVICE
2	I hereby certify that on November 15, 2010, I electronically filed the foregoing with the Clerk
3	of the Court using the CM/ECF system which will send notification to the counsel of record.
4	/s/ Carol L. Draper
5	/s/ Carol L. Draper CAROL L. DRAPER
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	Federal Defendants' Status Report Submitted November 15, 2010 Case No. 06-3604 (PJH) 6
28	